

**Remarks**

Claims 1, 5, 6, 9 and 15 are amended, claims 14, 18, 21, and 22 are canceled and claims 23 and 24 are added herein. Upon entry of this amendment, claims 1-13, 15-17, 19, 20, 23 and 24 will be pending. The following remarks are responsive to the Office action dated October 12, 2006.

**I. Response to Rejections under 35 USC § 112**

Claims 1 and 15 are amended herein to cancel the objectionable recitation that was previously added.

No new subject matter is introduced by the amendments made herein. In particular, support for the recitation in claims 1 and 15 that the color gradation provides a coloration which varies from a higher intensity of color to a lower intensity of color when the pant is dry is found at least in previously presented and now canceled claims 18, 20 and 22, as well as at page 10, line 8 through page 11, line 12 and at page 12, lines 15-19.

Support for new claim 23 can be found at least at page 3, lines 22-25 and page 12, lines 15-16.

Support for new claim 24 can be found at least at page 11, line 23 through page 12, line 14 and in Figs. 1 and 2.

For these reasons, the claims as now presented are submitted to satisfy the requirements of 35 USC §112.

**II. Response to Rejections under 35 USC § 102(e)**

**Claim 1**

Claim 1 as amended herein is directed to a disposable absorbent article having an area which is visible when the article is worn. A color gradation in this area provides a coloration which varies in intensity over the area from a

higher intensity of color to a lower intensity of color when the area is dry. A visible element, separate from the color gradation, is disposed in the area at a location where the coloration of the color gradation is of lower intensity or absent such that the visible element remains visible and is not obscured by the color gradation.

The essence of claim 1 as amended is that when the absorbent article is dry, the color gradation is visible, i.e., both a higher color intensity and a lower color intensity of the color gradation are visible when the article is dry such as is illustrated in Figs. 1 and 2 of the present application.

Claim 1 as amended is submitted to be unanticipated by and patentable over the references of record, and in particular U.S. Patent No. 6,297,424 (Olson et al.) in that whether considered alone or in combination the references fail to disclose or suggest an absorbent article having a color gradation in an area that provides a coloration which varies in intensity over the area from a higher intensity of color to a lower intensity of color when the area is dry, and a visible element separate from the color gradation.

In particular, Olson et al. disclose an absorbent article, such as a training pant, configured to provide an indication of wetness. The absorbent article includes a permanent character graphic (70), e.g., a dog, and several active object graphics (78), e.g., fish. Upon contact with urine (i.e., upon wetting of the article), the active graphics (78) either appear, disappear, or change to a brighter or darker color, thereby indicating wetness. The outer cover of the article has a white appearance (Column 9, lines 35-42). The cover includes a simulated elastic waistband (80), a simulated fly opening (82), and simulated elastic leg bands (84).

At page of the Office action, the Office characterizes the fish (78) of the Olson et al. article as the recited color gradation that provides a coloration which varies in intensity over the area from a high intensity of color to a lower intensity of the color. As best understood from the position set forth in the Response to Arguments (pages 7-8) of the Office action, the Office's position is that the fish (78), which Olson et al. teaches is an active graphic, has a higher intensity when the article is dry (i.e., before the graphic fades) and a lower intensity when the article is wet (i.e., when the graphic fades).

Assuming that this can be characterized as a color gradation, as the Office action asserts, the higher (non-faded graphic) and lower (faded graphic) intensity areas are not both present when the article is dry. That is, only the higher intensity (non-faded graphic) area is present when the article of Olson et al. is dry. The lower intensity (faded graphic) is not present when the article is dry.

Accordingly, Olson et al. fail to disclose, nor even suggest, a color gradation which provides a coloration that varies in intensity over the area from a higher intensity of color to a lower intensity of color when the area is dry as recited in amended claim 1. Canceled claim 22, the subject matter of which was added to claim 1 herein, stands rejected in view of Olson et al. and in particular the asserted teachings at column 2, lines 11-15. This passage, however, refers only to fading graphics in which the graphic becomes invisible or less visible upon the article becoming wet. There is no teaching or suggestion, however, of a color gradation (e.g., both higher intensity and lower intensity color) that is present when the article is dry.

For the above reasons, claim 1 as amended herein is submitted to be unanticipated by and patentable over Olson et al.

Claims 2-13, 19 and 20 depend directly or indirectly from claim 1 and are submitted to be patentable over the references of record for at least the same reasons as claim 1.

**Claim 4**

Claim 4 depends from claim 1 and further recites that the visible element is a wetness indicator (i.e., capable of indicating the article is wet. In the Office action, at page 4, second paragraph, the Office characterizes the dog graphic (70) of Olson et al. as the visible element recited in claim 1, and at the third paragraph takes the position that Olson et al. teach that the visible element (70) is a wetness indicator. However, Olson et al. clearly teach that the dog graphic (70) is a permanent character graphic (see column 13, lines 16-20), which is defined at column 3, lines 24-29 as a graphic that does not substantially change its degree of visibility when the absorbent article is insulted. Thus, there is no way of using the permanent graphic (70) as a wetness indicator to indicate that the article has been wetted. Accordingly, Olson et al fail the teach that the visible element (70) is a wetness indicator as recited in claim 4.

For these additional reasons, claim 4 is further submitted to be patentable over the references of record.

**Claim 20**

Claim 20 depends indirectly from claim 1 and further recites that the color gradation is printed on the article with a permanent ink. The term permanent is defined in the present application at page 3, lines 22-25 as meaning that the graphic

does not substantially change its degree of visibility when the absorbent article is insulted. That is, the color gradation, printed in permanent ink, will not change its degree of visibility when the absorbent article is insulted.

While Olson et al. do teach the use of permanent ink in reference to graphic elements such as the dog (70) (characterized by the Office as the visible element recited in claim 1), Olson et al. fail to disclose a color gradation that is printed with permanent ink.

In particular, the Office characterizes the fish (78) as the recited color gradation because it fades (changes intensity) upon becoming wet. However, this is clearly disclosed by Olson et al. as being a active graphic, and more particularly a fading graphic, that changes upon becoming wet. As such, the fish (78) cannot be said to be printed with permanent ink as recited in claim 20.

#### **Claim 15**

Claim 15 is directed to a disposable absorbent pant. As amended, claim 15 recites, among other elements, a color gradation providing a coloration which varies from a higher intensity of color in the vicinity of the waist region to a lower intensity of color toward the crotch region when the pant is dry.

Claim 15 is submitted to be unanticipated by and patentable over the references of record, and in particular Olson et al. for at least the same reasons as claim 1. That is, whether considered alone or in combination the references fail to disclose or suggest the recited color gradation in an area that provides a coloration which varies in intensity over the area from a higher intensity of color to a lower intensity

of color when the area is dry, and a visible element separate from the color gradation.

In addition, claim 15 recites that the coloration provided by the color gradation varies from a higher intensity of color "in the vicinity of the waist region" to a lower intensity of color "toward the crotch region" of the pant. Again the Office characterizes the fading fish (78) of Olson et al. as the recited color gradation. However, the location of the fading fish (78) does not change upon wetting of the pant of Olson et al. That is, the higher intensity (non-faded graphic) area is in precisely the same location as the lower intensity (faded graphic) area. There is no direction at all associated with the variation in color intensity provided by the fading fish (78) of Olson et al. As such, Olson et al. clearly further fail to teach or suggest the color intensity varying from the waist region toward the crotch region of the article as recited in claim 15.

For the above reasons, claim 15 is submitted to be unanticipated by and patentable over Olson et al.

Claims 16 and 17 depend from claim 15 and are submitted to be patentable over the references of record for the same reasons as claim 15.

### **III. Discussion of New Claims**

#### **Claim 23**

Claim 23 is directed to a disposable absorbent article having an area which is visible when the article is worn, a permanent graphic comprising a color gradation in said area providing a coloration which varies in intensity over the area from a higher intensity of color to a lower intensity of color, and a visible element separate from said permanent graphic and disposed in said area at a location where the coloration of

said color gradation is of lower intensity or absent such that the visible element remains visible and is not obscured by the color gradation.

The essence of new claim 23 is the provision of a permanent graphic that comprises a color gradation on a visible area of the article, with the coloration gradation providing a coloration which varies in intensity over the area from a higher intensity of color to a lower intensity of color. The term "permanent graphic" is defined in the present application (and the same definition is used in Olson et al.) at page 3, lines 22-25 as meaning that the graphic does not substantially change its degree of visibility when the absorbent article is insulted. In other words, the color gradation does not change in visibility when the absorbent article becomes wet.

Claim 23 is submitted to be unanticipated by and patentable over the references of record, and in particular Olson et al., in that whether considered alone or in combination the references fail to disclose or suggest an absorbent article comprising a permanent graphic having the recited color gradation.

Olson et al., as discussed above, disclose that the fading fish (78) changes visibility upon becoming wet. The Office action characterizes the change of the fading fish (78) from its dry state (non-faded graphic) to its wet state (faded graphic) as a color gradation. However, Olson et al. clearly teach that the fading fish (78) is an active graphic that changes visibility upon becoming wet, and not a permanent graphic that does not change visibility upon becoming wet as recited in claim 23. Accordingly, Olson et al. fail to disclose or even suggest a permanent graphic that has a color gradation.

For these reasons, new claim 23 is submitted to be patentable over the references of record.

**Claim 24**

New claim 24 is directed to a disposable absorbent article comprising a color gradation that is visible when the article is worn. The color gradation comprises a coloration that varies in intensity from an area of higher intensity of color to a separate area of lower intensity of color. A visible element separate from the color gradation is disposed at a location where the coloration of the color gradation is of lower intensity or absent such that the visible element remains visible and is not obscured by the color gradation. Claim 24 thus makes it clear that with respect to the recited color gradation, the area of lower color intensity is separate from (e.g., adjacent to so as to provide the recited gradation) the area of higher color intensity.

Claim 24 is submitted to be unanticipated by and patentable over the references of record, and in particular Olson et al., in that whether considered alone or in combination the references fail to disclose or suggest an absorbent article comprising a color gradation having an area of higher color intensity and a separate area of lower color intensity.

Olson et al., as discussed above, disclose that the fading fish (78) changes visibility upon becoming wet. The Office action characterizes the change of the fading fish (78) from its dry state (non-faded graphic) to its wet state (faded graphic) as a color gradation. However, the location of the fading fish (78) does not vary. As such, the area defined by the asserted higher color intensity (i.e., the fish in its non-faded condition) is exactly the same as the area defined by the

asserted lower color intensity (i.e., the fish in its faded condition). Accordingly, Olson et al. fail to disclose, or even suggest, the color gradation having an area of lower color intensity that is separate from the area of higher color intensity.

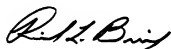
For these reasons, new claim 24 is submitted to be patentable over the references of record.

**III. Conclusion**

In view of the above, applicants respectfully request favorable consideration and allowance of claims 1-13, 15-17, 19, 20, 23 and 24 as now presented.

The Commissioner is hereby authorized to charge any fee deficiency in connection with this Amendment D to Deposit Account Number 19-1345 in the name of Senniger Powers.

Respectfully submitted,



Richard L. Bridge, Reg. No. 40,529  
SENNIGER, POWERS  
One Metropolitan Square, 16th Floor  
St. Louis, Missouri 63102  
(314) 231-5400

RLB/tmg  
VIA EFS